IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 342 OF 2007

Shri Kumar Anant Malwadkar ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. Francis A. Pareira, Advoate for the applciant.

Nr, Y.S. Shinde, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 12TH FEBRUARY, 2007.

P.C.

. Heard Mr. Pareira, learned Counsel for the applicant and Mr. Shinde, learned APP for the State. The applicant, who is practicing advocate seeks anticipatory bail in Crime No.309/2006 registered at Wanwadi Police Station for the offences punishable under Sections 467, 468,420 r/w with sections 34 and 109 Indian Penal Code.

2. The prosecution case, in brief, is that one Harish Wadiya is a builder running his business in the name and style as " Ashwini Promoters and Builders Pvt. Ltd." He constructed the building known as "Ashwini

Palace" on survey No. 65, Kedari Nagar, Wanwadi, Pune. A report was lodged by complainant Mrs. Linda Rebello to the effect that she had purchased the flat No. D-301 for consideration of Rs. 8,32,919/- from the builder. However, without giving possession of the same, the builder sold away the said flat to third party, namely Abdulbahi, for higher amount. On her report the offence was registered and during the investigation it was found that the main accused Harish Wadiya had executed power of attorney in favour of the present applicant and one Anil Kanhu Kale and through them he used to execute the sale deeds and agreements in favour of the buyers. It was further revealed that from the said building Ashwini Palace, one shop was sold twice, 16 flats were sold twice and 4 flats were sold thrice each and thus the original purchasers were duped to the tune of Rs. 6,31,43,300/-. Many of the subsequent sale deeds were executed by the present applicant and thus, the present applicant was in conspiracy with other two accused including Harish Wadiya in commission of the said crime.

3. Learned Counsel for the applicant contends that the applicant is willing to cooperate with the police in

the investigation and his whole case is based on documents and custodial interrogation is not required. The application is strongly opposed by the prosecution. Taking into consideration the facts and circumstances, I find that the applicant does not deserve anticipatory bail in such a serious offence. The applicant, being practicing lawyer, was expected to know what he was doing. Prima facie it is difficult to believe that he is so innocent that he would execute the subsequent sale deeds without knowledge of earlier once.

4. For the aforesaid reasons, the application stands rejected.

(J.H. BHATIA, J.)